## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Docket No. 9003

Application of

Joanne S. Walter

Serial No. 09/751,630                    Group Art Unit: 3692

Filed: December 29, 2000                 Examiner: J. Liversedge

For: **DATA PRIVACY ENCODING FOR CONSUMER INPUT MEDIA**

MS Appeal Brief
Commissioner for Patents
P.O. Box 1450
Alexandria, VA  22313-1450


### REPLACEMENT APPEAL BRIEF

Sir:

This is an appeal brief submitted in response to the final action of the Examiner dated August 20, 2007, finally rejecting all of the claims in the present application.


**(i) REAL PARTY IN INTEREST**

The real party in interest is NCR Corporation.


**(ii) RELATED APPEALS AND INTERFERENCES**

There are no related appeals and interferences.


**(iii) STATUS OF THE CLAIMS**

Claims 1-26 are pending in the application.

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Claims 1-26 stand rejected.

Claims 1-26 are appealed.

There are no other claims, e.g., cancelled, withdrawn, allowed, etc.

## (iv) STATUS OF AMENDMENTS

Appellant did not file a Response subsequent to the Final Rejection of August 20, 2007.

## (v) SUMMARY OF CLAIMED SUBJECT MATTER

Claims 1-8 relate to a method of prescribing personal data preferences.

As embodied in claim 1 the invention includes

a) coupling an electronic consumer device to a computer of a business selling goods or services; (page 13, lines 13-23)

b) accessing a personal data preferences program provided by the business as a service to customers of the business and executed by the computer through use of the electronic consumer device that enables a consumer to create a personal privacy profile by choosing, selecting, and then assigning opt in or opt out privacy options to one or more specific, distinct, and different types of personal data collected and maintained by the business including but not limited to the data types of history of purchases from the business by the consumer, demographic data, amount purchased, frequency of purchase, coupon used, payment

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method used, time of day, week, and year purchased, for the
purpose of identifying and limiting the discrete types of
data the business is authorized, by the customer's choice of
opt in, to collect, use, and disseminate in accordance with
the personal privacy profile data type options selected as
opt in by the customer; (page 1, lines 8-16; page 2, lines
10-16; page 11, lines 15-23; page 15, lines 6-21; Fig. 2)

c) recording consumer selection of the privacy options
via the consumer device by the computer; (page 11, lines 15-
23)

d) coding selected privacy options by the computer;
(page 15, lines 6-21; Fig. 2)

e) downloading coded privacy options to the consumer
device by the computer; (page 15, lines 6-21; Fig. 2)

f) transferring the coded privacy options to a consumer
storage medium separate from the consumer device by the
computer; (page 12, lines 5-8)

g) reading the coded privacy options from the consumer
storage medium by a transaction computer during a
transaction between the consumer and the business; and (page
15, lines 1-5)

h) limiting the collection, use, and dissemination of
the personal data by the transaction computer in accordance
with the coded privacy options. (page 15, lines 1-5)


Claims 9-16 relate to a method of prescribing personal data
preferences.


As embodied in claim 9 the invention includes


a) coupling an electronic consumer device to a computer
of a business which is a seller in the purchase transaction;

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(page 13, lines 13-23)

b) accessing a personal data preferences program provided by the business as a service to customers of the business and executed by the computer through use of the electronic consumer device that enables a consumer to create a personal privacy profile by choosing, selecting, and then assigning opt in or opt out privacy options to one or more specific, distinct, and different types of personal data collected and maintained by the business including but not limited to the data types of history of purchases from the business by the consumer, demographic data, amount purchased, frequency of purchase, coupon used, for the purpose of identifying and limiting the discrete types of data the business is authorized, by the customer's choice of opt in, to collect, use, and disseminate in accordance with the personal privacy profile data type options selected as opt in by the customer; (page 1, lines 8-16; page 2, lines 10-16; page 11, lines 15-23; page 15, lines 6-21; Fig. 2)

c) permitting the consumer to select the privacy options via the consumer device by the computer; (page 11, lines 15-23)

d) encoding selected privacy options by the computer; and (page 15, lines 6-21; Fig. 2)

e) downloading encoded selected privacy options to the consumer device by the computer for later downloading to a consumer storage medium separate from the consumer device; (page 15, lines 6-21; Fig. 2) ·

(f) reading the coded privacy options from the consumer storage medium by a transaction computer during the purchase transaction to limit the collection, use, and dissemination of the personal data by the transaction computer in accordance with the encoded selected privacy options. (page 15, lines 1-5)

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Claims 17-20 relate to a system for prescribing personal data preferences.

As embodied in claim 17 the invention includes

a processing unit; (page 5, lines 1-4; Fig. 1, item 14)

a network interface in communication with the processing unit and operable to be coupled to a computer of a business selling goods or services via an electronic network; and (page 6, lines 11-16; Fig. 1, item 26)

memory in communication with said processing unit and containing a plurality of instructions which, when executed by the processing unit, enable (a) an electronic consumer device to connect to the computer to access a personal data preferences program of the computer via the electronic network, the personal data preferences program being provided by the business as a service to customers of the business and operable to enable a consumer to create a personal privacy profile by choosing, selecting, and then assigning opt in or opt out privacy options to one or more distinct, and different types of personal data collected and maintained by the business including but not limited to history of purchases by the consumer, demographic data, amount purchased, frequency of purchase, coupon used, payment method used, time of day, week, and year purchased, for the purposed of identifying and limiting the discrete types of data the business is authorized, by the customer's choice of opt in, to collect, use, and disseminate in accordance with the personal privacy profile data type options selected as opt in by the customer; (b) allow a

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consumer via the consumer device to select the privacy options; (c) convert selected privacy options into a personal data model; (d) code the personal data model in a format readable by a retail terminal of the business during a purchase transaction to limit the collection, use, and dissemination of the personal data by the retail terminal; and (e) transmit a coded personal data model to the consumer device, wherein the consumer device is operable to transfer a received coded personal data model onto a personal data preferences storage medium of the consumer which separate from the consumer device and which is read by the retail terminal during the purchase transaction. (page 1, lines 8-16; page 2, lines 10-16; page 11, lines 15-23; page 15, lines 6-21)

Claims 21-25 relate to a method of prescribing personal data preferences.

As embodied in claim 21 the invention includes

a) recording privacy preferences of a customer by a computer of the seller as a service to the customer, wherein the privacy preferences instruct a transaction computer of the seller that reads the privacy preferences from a portable storage medium of the customer to limit collection and dissemination of one or more specific, distinct, and different types of the transaction data produced during a transaction between the customer and the seller including but not limited to the data types of history of purchases from the seller by the customer, demographic data, amount purchased, frequency of purchase, coupon used, payment

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method used, time of day, week, and year purchased; (page 1,
lines 8-16; page 2, lines 10-16; page 11, lines 15-23; page
15, lines 6-21; Fig. 2)

  b) coding the privacy options by the computer of the
seller; and (page 15, lines 6-21; Fig. 2)

  c) downloading coded privacy preferences to the
portable storage medium of the customer by the computer of
the seller. (page 15, lines 6-21; Fig. 2)

## (vi) GROUNDS OF REJECTION TO BE REVIEWED ON APPEAL

Claims 1-6 and 8-25 stand rejected under 35 USC 103(a) as
being unpatentable over Siegel (2002/0091562) in view of Stepanek
(Protecting E-Privacy).

Claim 7 stands rejected under 35 USC 103(a) as being
unpatentable over Siegel (2002/0091562) in view of Stepanek
(Protecting E-Privacy) and further in view of Love Bug Virus.

## (vii) ARGUMENT

Siegel discloses a customer storage device containing a
identifying information (customer profile) associated with an
Electronic Information Account (EIA) assigned by an EIA
Facilitator (P 0023). The device limits customer information
*provided either from a customer storage device or from and EIA
storage device* to information selected by the customer (P 0013).
The customer uses the device to limit private information

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available to third parties that would link his identity to his purchases (P 0007). The customer may also wish to limit the types of transactions that may occur on his electronic account (P 0008). The customer may also wish to data mine his own transaction history (P 0008). The device stores a record of each transaction (P 0013). The customer may wish to forward a transaction record to a source of purchased goods or services, thereby registering the transaction for warranty (P 0024).

Stepanak is directed to protecting web users from data mining. Stepanak discloses that web users targeted by on-line advertiser DoubleClick has a web site that discusses opt out policies.

Love Bug Virus discloses that simple passwords are insecure and suggests storing encrypted passwords on cards. However, Love Bug Virus fails to disclose storing opt in opt out privacy options that limit what a business can collect and disseminate about a consumer in cards and the like.

**None of the references discloses a personal data preferences program provided by a business involved in a purchase transaction as a service to its customers.**

Siegel discloses limiting customer information that may be provided by an EIA storage device, while Applicant claims

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limiting customer information that may be collected and disseminated by a seller of goods. The two methods of limiting customer information are different, because limits are set and enforced by different entities, Siegel with an EIA facilitator and Applicant with a seller of goods. Under Applicant's invention, a seller of goods limits collection of customer information as a service to the customer, per customer choices previously made via a computer of the seller.

Siegel fails to teach or suggest that limits be placed on collection and dissemination of a type of customer of customer information, transaction data, by a seller. Siegel discloses that transaction data is freely collected and disseminated, and suggests that a consumer be allowed access to the same information to data mine it.

The Office concedes that Siegel fails to disclose coupling an electronic consumer device to a computer of a business selling goods or services.

Stepanak suggests that a method for opting out exists, but fails to provide a description of it. Neither reference discloses assigning opt in or opt out privacy options to one or more specific, distinct, and different types of personal data collected and maintained by the business including but not

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limited to the data types of history of purchases from the business by the consumer, demographic data, amount purchased, frequency of purchase, coupon used, payment method used, time of day, week, and year purchased, for the purpose of identifying and limiting the discrete types of data the business is authorized, by the customer's choice of opt in, to collect, use, and disseminate in accordance with the personal privacy profile data type options selected as opt in by the customer.

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## Conclusion

Appellant respectfully submits that the Office has failed to establish a prima facie case of obviousness and that the rejection of claims 1-26 is improper.

Appellant further submits that claims 1-26 are allowable and respectfully request that the rejection of claims 1-26 by the Examiner be reversed by the Board.

Respectfully submitted,
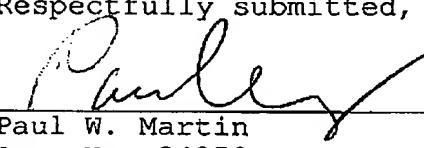
Paul W. Martin
Reg. No. 34870
(937) 445-2990

Dayton, Ohio

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## (viii) CLAIMS APPENDIX

1.    A method for prescribing personal data preferences comprising the steps of:

a) coupling an electronic consumer device to a computer of a business selling goods or services;

b) accessing a personal data preferences program provided by the business as a service to customers of the business and executed by the computer through use of the electronic consumer device that enables a consumer to create a personal privacy profile by choosing, selecting, and then assigning opt in or opt out privacy options to one or more specific, distinct, and different types of personal data collected and maintained by the business including but not limited to the data types of history of purchases from the business by the consumer, demographic data, amount purchased, frequency of purchase, coupon used, payment method used, time of day, week, and year purchased, for the purpose of identifying and limiting the discrete types of data the business is authorized, by the customer's choice of opt in, to collect, use, and disseminate in accordance with the personal privacy profile data type options selected as opt in by the customer;

c) recording consumer selection of the privacy options via the consumer device by the computer;

d) coding selected privacy options by the computer;

e) downloading coded privacy options to the consumer device by the computer;

f) transferring the coded privacy options to a consumer storage medium separate from the consumer device by the computer;

g) reading the coded privacy options from the consumer storage medium by a transaction computer during a transaction between the consumer and the business; and

h) limiting the collection, use, and dissemination of the

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personal data by the transaction computer in accordance with the coded privacy options.

2. The method of claim 1, wherein step a) includes coupling the consumer device to the computer via an electronic network.

3. The method of claim 2, wherein the electronic network is the Internet.

4. The method of claim 1, wherein step d) includes coding the selected privacy options into a barcode.

5. The method of claim 1, wherein step d) includes coding the selected privacy options into a magnetic strip readable format.

6. The method of claim 1, wherein step f) includes transferring the coded privacy options to a magnetic strip on a card.

7. The method of claim 1, wherein step f) includes transferring the coded privacy options to a key flock.

8. The method of claim 1, wherein the consumer device is one of a personal computer, a personal digital assistance, and a cell phone.

9. A method of encoding personal data preferences of a consumer for use during a purchase transaction comprising the steps of:
    a) coupling an electronic consumer device to a computer of a business which is a seller in the purchase transaction;
    b) accessing a personal data preferences program provided by the business as a service to customers of the business and executed by the computer through use of the electronic consumer device that enables a consumer to create a personal privacy

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profile by choosing, selecting, and then assigning opt in or opt out privacy options to one or more specific, distinct, and different types of personal data collected and maintained by the business including but not limited to the data types of history of purchases from the business by the consumer, demographic data, amount purchased, frequency of purchase, coupon used, for the purpose of identifying and limiting the discrete types of data the business is authorized, by the customer's choice of opt in, to collect, use, and disseminate in accordance with the personal privacy profile data type options selected as opt in by the customer;

    c) permitting the consumer to select the privacy options via the consumer device by the computer;

    d) encoding selected privacy options by the computer; and

    e) downloading encoded selected privacy options to the consumer device by the computer for later downloading to a consumer storage medium separate from the consumer device;

    (f) reading the coded privacy options from the consumer storage medium, by a transaction computer during the purchase transaction to limit the collection, use, and dissemination of the personal data by the transaction computer in accordance with the encoded selected privacy options.

10. The method of claim 9, wherein the consumer device comprises one of a personal computer, a personal digital assistant, and a cell phone.

11. The method of claim 9, further comprising the steps of:

    f) transferring downloaded encoded selected privacy options onto a code storage device, the code storage device being readable by the transaction computer during a purchase transaction; and

    g) reading the downloaded encoded privacy options from the

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consumer storage medium by the transaction computer during the purchase transaction.

12. The method of claim 11, wherein the code storage device comprises one of a key flock, access card, and a barcode.

13. The method of claim 9, wherein step d) includes:
      encoding the selected privacy options into a barcode format.

14. The method of claim 9, wherein step d) includes:
      encoding the selected privacy options into a magnetic strip readable format.

15. The method of claim 9, wherein step a) includes coupling the consumer device to the computer via a network.

16. The method of claim 15, wherein the network comprises the Internet.

17. A system for prescribing personal data preferences comprising:
      a processing unit;
      a network interface in communication with the processing unit and operable to be coupled to a computer of a business selling goods or services via an electronic network; and
      memory in communication with said processing unit and containing a plurality of instructions which, when executed by the processing unit, enable (a) an electronic consumer device to connect to the computer to access a personal data preferences program of the computer via the electronic network, the personal data preferences program being provided by the business as a service to customers of the business and operable to enable a consumer to create a personal privacy profile by choosing,

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selecting, and then assigning opt in or opt out privacy options to one or more distinct, and different types of personal data collected and maintained by the business including but not limited to history of purchases by the consumer, demographic data, amount purchased, frequency of purchase, coupon used, payment method used, time of day, week, and year purchased, for the purposed of identifying and limiting the discrete types of data the business is authorized, by the customer's choice of opt in, to collect, use, and disseminate in accordance with the personal privacy profile data type options selected as opt in by the customer; (b) allow a consumer via the consumer device to select the privacy options; (c) convert selected privacy options into a personal data model; (d) code the personal data model in a format readable by a retail terminal of the business during a purchase transaction to limit the collection, use, and dissemination of the personal data by the retail terminal; and (e) transmit a coded personal data model to the consumer device, wherein the consumer device is operable to transfer a received coded personal data model onto a personal data preferences storage medium of the consumer which separate from the consumer device and which is read by the retail terminal during the purchase transaction.

18.  The system of claim 17, wherein said consumer device is one of a personal computer, a cell phone, and personal digital assistant.

19.  The system of claim 17, wherein the coded personal data model is encoded into a barcode format.

20.  The system of claim 17, wherein the coded personal data model is encoded into a magnetic strip format.

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21. A method of prescribing rules for collection and dissemination of customer data to a seller of goods or services comprising the steps of:

    a) recording privacy preferences of a customer by a computer of the seller as a service to the customer, wherein the privacy preferences instruct a transaction computer of the seller that reads the privacy preferences from a portable storage medium of the customer to limit collection and dissemination of one or more specific, distinct, and different types of the transaction data produced during a transaction between the customer and the seller including but not limited to the data types of history of purchases from the seller by the customer, demographic data, amount purchased, frequency of purchase, coupon used, payment method used, time of day, week, and year purchased;

    b) coding the privacy options by the computer of the seller; and

    c) downloading coded privacy preferences to the portable storage medium of the customer by the computer of the seller.

22. The method of claim 21, wherein step a) includes recording privacy preferences of a customer via an electronic customer device by a computer.

23. The method of claim 22, wherein the electronic customer device comprises a personal computer.

24. The method of claim 22, wherein the electronic customer device comprises a portable communication device.

25. The method of claim 22, wherein the electronic customer device comprises a portable communication device.

26. The method of claim 21, wherein step a) includes recording

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privacy preferences of a customer via a self-service terminal of the seller.

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## (ix) EVIDENCE APPENDIX

No evidence pursuant to §§1.130, 1.131, or 1.132 or any other evidence has been entered by the Examiner or relied upon by Appellant.

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**(x) RELATED PROCEEDINGS APPENDIX**

There are no related decisions rendered by a court or the Board or copies of such decisions.

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